

The Protection and Enforcement of Women's Property Rights in Ghana: Toward Gender Equality, Social Cohesion, and Sustainable Development

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Abstract

While legal frameworks for gender equality in property rights have advanced significantly in Ghana, the persistence of customary tenure systems has created a profound disconnect between statutory guarantees and lived realities. This article moves beyond conventional legal analysis to interrogate how this gap between law and practice actively erodes both social cohesion and sustainable development. Employing a dialectical materialist framework, the study analyzes the contradictions between constitutional protections, judicial precedents, and the customary norms that govern approximately 80 percent of Ghana's land. Through systematic examination of legislative instruments,

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Ghana Living Standards Survey data, and case law, the article demonstrates that women's property insecurity constitutes a form of horizontal inequality that fractures community trust and undermines the social contract.

Furthermore, it reveals a critical sustainability trap of insecure tenure, which disincentivizes the long-term environmental stewardship and climate-resilient agriculture essential for Ghana's future. The article concludes that the enforcement of women's property rights is not merely a matter of legal compliance or gender justice but a strategic lever for strengthening community resilience, rebuilding institutional trust, and advancing the interconnected goals of the 2030 Agenda for Sustainable Development. The findings offer a transformative reform framework that centers social cohesion as a prerequisite for sustainable development in legally pluralistic societies across Africa. Critically, this framework is applicable beyond Ghana, offering transferable lessons for other post-colonial African states navigating the tensions between statutory equality and customary practice.

Keywords

Ghana, Women's Property Rights, Gender Equality, Inheritance/Succession, Legal Pluralism, Social Cohesion, Sustainable Development

Introduction

The intersection of property rights and gender equality represents a critical connection in the discourse on social cohesion and sustainable development. Property ownership serves not merely as an economic asset but as a fundamental mechanism through which individuals exercise agency, secure livelihoods, and participate in socio-political processes (Deere and Doss, 2006). For women in particular, secure property rights constitute a bulwark against poverty, domestic violence, and systemic marginalization (Agarwal, 1994). However, in many post-colonial societies, including Ghana, women's access to and control over property remains circumscribed by intersecting legal, cultural, and institutional barriers. These barriers simultaneously undermine societal trust and impede progress toward the Sustainable Development Goals (SDGs), particularly SDG 5 (Gender Equality), SDG 1 (No Poverty), and SDG 16 (Peace, Justice, and Strong Institutions).

Ghana presents a particularly instructive case study for examining the tensions between statutory protections and customary practices in the realm of women's property rights. As a nation with deep engagement in international law dating from the colonial era to the present (Okeke, 2015), Ghana has demonstrated commitment to gender equality through constitutional provisions, legislative reforms, and ratification of international human rights instruments. The 1992 Constitution of Ghana established fundamental human rights protections consistent with the Universal Declaration of Human Rights (UDHR) and mandated the creation of the Commission on Human Rights and Administrative Justice (CHRAJ) to promote and protect these rights (Addey and Chobbah, 2022).

Despite this progressive legal framework, lived reality diverges significantly from statutory guarantees. Approximately 80 percent of Ghana's land operates under customary tenure (Akrofi and Whittal, 2013), where traditional practices often supersede formal law. Customary norms governing inheritance and property distribution frequently disadvantage women's rights (Fenrich and Higgins,

2001), exemplifying broader challenges facing post-colonial African states in harmonizing indigenous legal traditions with international human rights standards.

Comparative evidence from India, Mozambique, Kyrgyzstan, and Tajikistan demonstrates that legislative reform alone proves insufficient where customary practices and patriarchal norms retain social legitimacy (Singh, 2024; Bicchieri and Ayala, 2017; Nazira, 2020). In India, despite the Hindu Succession (Amendment) Act mandating gender-equal inheritance, implementation remains uneven. Similarly, in Mozambique, gender-equitable statutory land law coexists with customary practices marginalizing women's ownership claims. These patterns underscore the importance of examining not merely legal content but the socio-legal mechanisms through which rights are realized or obstructed.

This article addresses these challenges through systematic analysis grounded in dialectical materialism, examining contradictions between statutory and customary legal systems governing women's property rights. Crucially, this analysis extends beyond the legal text to interrogate the material and relational consequences of property insecurity: the erosion of social cohesion through horizontal inequality and the compromise of sustainable economic development through the misallocation of resources and labor. The article contributes to scholarship on legal pluralism by providing rigorous analysis of mechanisms through which statutory protections fail to translate into substantive rights, advancing understanding of relationships between property rights and women's agency, and offering evidence-based recommendations for institutional reform that are explicitly designed to bolster community resilience and intergenerational sustainability. It further contributes to African feminist legal theory by centering the material conditions of women's lives as the starting point for legal critique and reform and to comparative legal scholarship by situating Ghana's experience within a broader global context of legally pluralistic post-colonial states.

Theoretical Framework: Dialectical Materialism and the Social Cohesion and Sustainability Connection

This article employs dialectical materialism as its primary analytical framework to examine the contradictions between statutory law and customary practices governing women's property rights in Ghana. Dialectical materialism, rooted in Marxist philosophy, provides a robust theoretical lens for analyzing how material conditions, social relations, and legal structures interact dynamically to produce and reproduce patterns of inequality (Marx, 1867/1990; Engels, 1884/2010). This framework proves particularly apt for examining legal pluralism in post-colonial contexts, where multiple normative orders coexist in tension and where formal legal equality often masks substantive material inequality.

The dialectical approach facilitates analysis of three interrelated dimensions: (1) the material basis of women's subordination in property relations; (2) the contradictions between competing legal regimes (statutory versus customary); and (3) the potential for transformative change through the resolution of these contradictions. By examining property rights as embedded within the broader structures of economic production, social reproduction, and political power, this framework illuminates how legal reforms interact with, and are constrained by, underlying material and ideological conditions.

Within the context of this study, the dialectical method is particularly suited to revealing the contradictions inherent in the pursuit of sustainable development within a legally pluralistic society. The exclusion of women from secure property rights generates a primary contradiction between the economic base (women's essential agricultural labor and economic contribution) and the legal-political superstructure (customary law that denies ownership). This contradiction manifests not only as individual poverty but also as a collective drain on social cohesion. When a significant demographic (rural women farmers) perceives the legal and customary justice system as illegitimate or exclusionary, vertical trust in state institutions erodes, and horizontal trust within communities frays along gender lines.

The framework thus posits that the resolution of this contradiction (the equitable enforcement of rights) is a prerequisite for social sustainability, the capacity of a society to manage conflicts peacefully and ensure inclusive participation

over the long term. Failure to resolve this contradiction perpetuates a cycle of unsustainable development, wherein agricultural productivity stagnates (environmental and economic unsustainability) and community relations are characterized by latent or overt conflict (social unsustainability). This framework also engages productively with African feminist legal theory (Banda, 2005; Ncube, 1997), which insists that legal analysis must be grounded in the lived material realities of African women and must critically interrogate how colonial-era legal structures have been selectively preserved or adapted to perpetuate patriarchal control over land and resources.

Research Design and Analytical Framework

The article adopts a qualitative, socio-legal research design integrating doctrinal legal analysis with critical examination of empirical evidence. It is structured as an interpretive, theory-driven analysis that synthesizes multiple forms of legal and social scientific data to generate a comprehensive understanding of the research problem.

Data Sources and Selection Criteria

The research design encompasses four categories of data, selected on the basis of their authoritative standing, relevance to the research problem, and capacity to triangulate findings across legal, empirical, and comparative dimensions:

- Constitutional and statutory legal sources, analyzed doctrinally to establish the formal legal framework;
- Judicial precedents, selected for their precedential significance in shaping contemporary property rights jurisprudence;
- Empirical survey data and institutional reports, chosen for their representativeness and methodological rigor; and
- Comparative international literature, selected to contextualize Ghana's experience within global patterns of legal pluralism and gender-land tenure.

Primary legal sources include: (1) the 1992 Constitution of the Republic of Ghana, particularly Chapter Five and Article 22; (2) the Intestate Succession Law, 1985

(PNDC Law 111); (3) the Matrimonial Causes Act, 1971 (Act 367); (4) the Customary Marriage and Divorce (Registration) Law, 1985 (PNDC Law 112); (5) the Criminal Offences Act, 1960 (Section 69A); and (6) the Head of Family Accountability Law, 1985 (PNDC Law 114).

Judicial precedents reviewed include *Quartey v. Martey* (establishing the foundational framework denying women's independent property claims, though deeply problematic); *Mensah v. Mensah* (2012), marking judicial recognition of the substantial contribution principle; and *Adjei v. Bekoe* (2015), addressing the valuation of non-financial contributions.

Empirical evidence was synthesized from: (1) Ghana Living Standards Survey (GLSS) data; (2) World Bank land tenure surveys; (3) CHRAJ reports; (4) Ghana Land Administration Authority registration data; and (5) Demographic and Health Survey (DHS) data.

Analytical Process

Data analysis proceeded through three iterative stages. In the first stage, doctrinal analysis was employed to map the formal legal landscape, identifying the hierarchy of legal sources, areas of statutory ambiguity, and gaps between constitutional mandate and legislative provision. In the second stage, socio-legal analysis was used to examine the mechanisms through which formal legal provisions are translated or not translated into substantive rights in practice, drawing on empirical survey data and institutional reports to document patterns of implementation failure. In the third stage, critical synthesis integrated the doctrinal and empirical findings within the dialectical materialist framework, revealing the structural contradictions that sustain women's property insecurity and identifying the leverage points most amenable to transformative reform.

Conceptual Framework Diagram

Figure 1 below illustrates the analytical architecture of this study, mapping the relationships among the theoretical framework, data sources, core analysis, and findings.

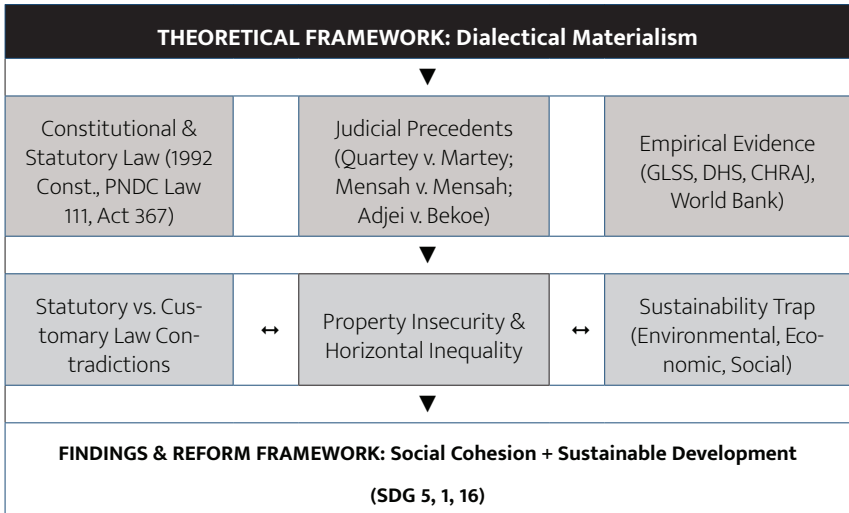


Figure 1. Conceptual Framework: Analytical Architecture of the Study

The Protection of Women’s Property Rights in Ghana: Constitutional Statutory Framework

Constitutional Foundations

The 1992 Constitution of Ghana establishes the foundational legal framework for property rights protection, explicitly guaranteeing gender equality before the law. Chapter Five enshrines fundamental human rights and freedoms, reflecting principles articulated in the Universal Declaration of Human Rights (UDHR). Article 17 provides comprehensive protection against discrimination on multiple grounds, including sex, while Articles 18 and 21 guarantee rights to property and family protection, respectively.

Article 22, titled ‘Property Rights of Spouses,’ constitutes the Constitution’s most direct engagement with matrimonial property. This provision establishes three fundamental principles: First, Article 22(1) mandates that no spouse shall be deprived of reasonable provision from the other spouse’s estate, regardless of whether a will was executed. Second, Article 22(2) directs Parliament to enact legislation regulating spouses’ property rights. Third, Article 22(3) articulates aspirational principles for such legislation, specifying that spouses should have equal access to jointly acquired property and that assets acquired during

marriage should be distributed equitably upon dissolution.

These constitutional provisions establish formal legal equality while simultaneously revealing critical ambiguities. The Constitution recognizes both statutory and customary law as sources of Ghanaian law under Article 11(1), yet provides no clear hierarchy when these systems conflict. Article 11(2) maintains customary law's validity only 'to the extent that it is not inconsistent with the Constitution,' but the practical mechanisms for determining such inconsistency remain underdeveloped. This structural ambiguity creates space for customary practices that undermine constitutional guarantees to persist under the guise of cultural legitimacy.

The Intestate Succession Law: Objectives and Provisions

The Intestate Succession Law of 1985 (PNDC Law 111) represents Ghana's most significant statutory intervention in inheritance practices. Enacted during the Provisional National Defence Council regime, this legislation sought to establish uniform succession rules applicable throughout Ghana, superseding diverse customary practices that often disadvantaged women and children. Prior to PNDC Law 111, intestate succession followed customary rules varying by ethnic group, with widows frequently excluded from inheritance despite their contributions to matrimonial property accumulation (Gedzi, 2014).

The law's distributive scheme prioritizes the nuclear family, allocating property as follows: spouse(s) receive three-sixteenths (3/16); children receive nine-sixteenths (9/16); parents receive one-sixteenth (1/16); and the customary family receives three-sixteenths (3/16). This allocation represented a departure from patrilineal and matrilineal customs that channeled property to extended family members while bypassing surviving spouses.

However, critical limitations constrain the law's effectiveness. Most significantly, PNDC Law 111 recognizes only one spouse for distribution purposes. In contexts where polygamous customary marriages remain socially legitimate and legally recognized under the Customary Marriage and Divorce Registration Law, this provision effectively disinherits subsequent wives and their children. A hypothetical case illustrates this injustice: In a rural community, Ama, a secondary wife married under customary law, maintained and cultivated

farmland jointly with her husband for twenty years. Upon his death intestate, local customary authorities reassigned the land to the first wife and male relatives, invoking PNDC Law 111's single-spouse recognition. Despite Ama's substantial contributions and the legal recognition of her customary marriage, the intestacy framework rendered her claim legally invalid, demonstrating how statutory reform can paradoxically reinforce vulnerability when it fails to account for social realities. Additionally, PNDC Law 111's effectiveness depends critically on popular awareness and institutional capacity for enforcement. In rural areas characterized by high illiteracy rates, geographic isolation from administrative centers, and limited exposure to formal legal systems, knowledge of statutory succession rights remains minimal (Hughes and Knox, 2019).

The Matrimonial Causes Act and Property Distribution

The Matrimonial Causes Act of 1971 (Act 367) governs property distribution upon divorce or judicial separation. Sections 19 and 20 vest courts with broad discretion to order financial provision and property settlements "as the court thinks just and equitable," considering factors including parties' standard of living and financial circumstances. Section 20(1) specifically authorizes courts to order either party to pay money or convey property "as settlement of property rights" in gross or by installments.

Act 367 marked an important development by granting judicial authority to redistribute property upon marriage dissolution, potentially protecting women who otherwise would leave marriages economically vulnerable. However, the Act's efficacy depends entirely on judicial interpretation and application. The law provides minimal substantive guidance on how courts should assess contributions or determine equitable distributions, leaving vast discretion to individual judges whose own understanding of gender roles and property rights may vary considerably.

Summary of Key Legal Instruments

Table 1 below provides a comparative overview of the primary legislative instruments governing women's property rights in Ghana, their core provisions, and their principal limitations.

Table 1. Key Legislative Instruments Governing Women’s Property Rights in Ghana

Legal Instrument	Core Provision	Key Limitation
1992 Constitution, Art. 22	Equal property rights for spouses; equitable distribution on dissolution	No clear hierarchy over customary law; aspirational language lacks operational specificity
PNDC Law 111 (1985)	Uniform intestate succession allocating 3/16 to spouse(s)	Recognizes only one spouse; ignores polygamous realities
Matrimonial Causes Act (1971, Act 367)	Court discretion for a just and equitable property settlement on divorce	No substantive criteria; susceptible to gender bias in judicial interpretation
PNDC Law 112 (1985, amended 1991)	Registration of customary marriages	Registration rates low; informal unions remain unprotected
Criminal Offences Act (1960), s. 69A	Prohibition of harmful traditional practices	Enforcement weak; broad definitional ambiguity

The Adjudicative Role of Courts in Protecting Women’s Property Rights

The Judicial Architecture

Ghana’s judicial system comprises a hierarchical structure with the Supreme Court exercising ultimate appellate and interpretive authority. Established by Article 126 of the 1992 Constitution, the Supreme Court possesses exclusive jurisdiction over constitutional interpretation and enforcement. Below the Supreme Court sit the Court of Appeal, the High Court, regional tribunals, and lower courts. Additionally, traditional councils exercise limited quasi-judicial functions within customary law frameworks (Asare and Odetsi-Twum, 2021).

This dual structure, that is, the formal courts and customary tribunals operating in parallel, epitomizes Ghana’s legal pluralism. While Article 11 of the Constitution recognizes both statutory and customary law as legitimate sources, the practical relationship between these systems remains contested. Approximately 80 percent of land in Ghana operates under customary tenure, administered by traditional authorities and lineage heads (Akrofi and Whittal, 2013). This creates jurisdictional ambiguities wherein formal courts may assert

authority based on statutory law while customary institutions claim legitimacy through cultural tradition and popular acceptance.

Judicial Evolution: From *Quartey v. Martey* to *Mensah v. Mensah*

The case of *Quartey v. Martey*, even though deeply problematic, established the foundational framework governing women's property claims in post-independence Ghana. In this case, the widow plaintiff sought a share of property she helped accumulate through financial contributions and active participation in her husband's business enterprises. Justice Ollenu, delivering the court's judgment, articulated a principle that would constrain women's property rights for decades:

By customary law, it is the primary duty of a man's wife and children to help him in the carrying out of the responsibilities of his station in life, either business or farming. The profits of this joint enterprise of a man and his wife and/or children and any assets that the man acquires with such revenues are, by customary law, the man's individual property. It is not the joint property of the husband and the wife and/or children. The wife's and the children's right is a right to maintenance and support from the husband and father (**Otoo, 2019**).

This reasoning enshrined male default ownership despite wives' contributions, relegating women's labor, whether financial, agricultural, or domestic, to the status of familial duty rather than economic investment meriting property claims. The decision reflected and reinforced patriarchal assumptions about gender roles, property ownership, and familial obligations. Under *Quartey v. Martey*, women could contribute extensively to property accumulation yet acquire no ownership rights, remaining dependent on discretionary maintenance obligations.

The passage of the Matrimonial Causes Act in 1971, particularly Section 20's mandate for just and equitable property settlements, provided courts with statutory authority to move beyond *Quartey's* rigid framework. Over subsequent decades, judicial interpretation gradually developed the principle of 'substantial contribution' as a mechanism for recognizing women's property rights. This

doctrine holds that a spouse who makes substantial contributions to property acquisition or improvement may claim an equitable interest proportionate to that contribution. The 2012 case *Mensah v. Mensah* marked a significant evolution in this doctrine. The Court recognized that the wife's contributions, both financial and non-financial, during the marriage warranted equitable distribution of property upon dissolution. This decision signaled judicial willingness to value women's diverse forms of contribution and to interpret substantial contribution more expansively than purely monetary investment.

However, critical limitations constrain the substantial contribution doctrine's transformative potential. First, the doctrine perpetuates a contributory framework that presumes male ownership as default, requiring women to affirmatively prove their entitlement through documented contributions. This burden-shifting creates particular disadvantages for women whose contributions take non-monetized forms or who lack formal documentation. Globally, women perform 76.2 percent of total unpaid care work (ILO, 2018), yet this labor rarely leaves a paper trail and is systematically excluded from financial records. Compounding the problem, women in Sub-Saharan Africa remain disproportionately unbanked: only 39 percent hold a financial account compared with 48 percent of men (DemirgüçKunt et al., 2021), cutting them off from the documented monetary history that judges often deem necessary. Feminist legal scholarship has long argued that such evidentiary filters construct the male financial contributor as the "normative owner" and render women's domestic contributions invisible (Graycar & Morgan, 2002; Boyd, 1997).

Second, judicial interpretation of 'substantial' remains inconsistent and susceptible to gender bias. In *Adjei v. Bekoe* (2015), courts grappled with valuing domestic labor and childcare contributions typically gendered female. Without clear doctrinal guidance or standardized valuation methods, outcomes depend heavily on individual judges' perspectives regarding the economic value of reproductive labor. The CEDAW Committee has expressly warned that, absent valuation benchmarks, judicial discretion in matrimonial property division frequently reinforces gender stereotypes by undervaluing nonfinancial contributions (CEDAW, 2013, para. 42). Empirical analysis of Ghanaian superior court decisions since *Adjei* confirms this pattern: the share of property awarded for domestic contributions has ranged from 20 to 50 per cent in

factually analogous cases, with no discernible rationale (Atuguba & Akuffo, 2021). This unpredictability sits uneasily beside the macroeconomic reality that unpaid care and domestic work is valued at approximately 9 trillion USD globally, or 9 percent of world GDP (ILO, 2018). In the absence of mandated valuation methods such as replacement cost or opportunity cost approaches, the economic worth of reproductive labor is left to ad hoc judicial intuition, allowing gendered assumptions about lesser work to survive. Consequently, rather than dismantling structural inequality, the substantial contribution doctrine frequently reproduces the very hierarchies it purports to correct.

Third, the substantial contribution framework remains inaccessible to many women who lack resources to pursue litigation. Court proceedings impose steep financial burdens for legal representation, court fees, and associated expenses, effectively excluding impoverished women. In Ghana, engaging a private lawyer for a matrimonial property dispute can cost several thousand Ghana cedis, a sum far beyond the reach of many women in the informal sector, where earnings are low and irregular (Ghana Statistical Service, 2019). The World Bank's Women, Business, and the Law report observes that litigation costs in Sub-Saharan Africa often consume a substantial share of the disputed asset's value, discouraging women from asserting their rights (World Bank, 2021). A survey by the International Federation of Women Lawyers (FIDA) Ghana found that over 60 per cent of rural women cited legal fees as the primary barrier to pursuing property claims, while fewer than 10 per cent could afford a lawyer without external support (FIDA Ghana, 2016). The barriers extend beyond fees because navigating formal legal processes demands literacy, legal awareness, and time, resources that rural women, especially those confronting the immediate survival crisis of widowhood or divorce, rarely possess. Fenrich and Higgins (2001) documented that widows in Ghana frequently face eviction threats and loss of livelihood, compelling them to prioritize daily subsistence over protracted court battles. Indeed, female-headed households in rural Ghana experience poverty rates significantly above the national average (Ghana Statistical Service, 2018), leaving little capacity for litigation, however meritorious the claim. Legal aid schemes remain under-resourced and geographically concentrated in urban areas, leaving rural women effectively without recourse (Atuguba, 2012; UNDP, 2014). Consequently, while *Mensah v. Mensah* represents doctrinal progress, its benefits accrue primarily to women with sufficient resources and institutional

access to assert their rights through formal judicial channels, while the most vulnerable remain silenced by structural economic and geographic barriers.

Judicial Engagement with International Law

Ghana operates under a dualist framework wherein international law does not automatically integrate into domestic law but requires specific legislative incorporation (Okeke, 2015). Article 40 of the 1992 Constitution commits Ghana to conduct its international affairs in consonance with accepted principles of public international law; however, this provision establishes primarily a directive principle rather than creating directly enforceable rights.

Ghanaian courts have demonstrated considerable restraint in invoking international human rights instruments when adjudicating property rights disputes. While the Constitution's fundamental rights provisions align substantively with instruments such as CEDAW (ratified by Ghana in 1986), judicial reasoning typically references constitutional provisions directly rather than their international law foundations. This restraint contrasts markedly with approaches in other jurisdictions, particularly South African courts, which, in *Bhe v. Magistrate*, explicitly invoked CEDAW in striking down customary inheritance rules that discriminated against women, demonstrating transformative potential when judiciaries actively engage international standards.

Nevertheless, international law offers significant untapped potential for advancing women's property rights in Ghana. At minimum, courts could employ international instruments interpretively using Ghana's CEDAW obligations to inform the construction of ambiguous constitutional or statutory provisions. More ambitiously, courts might recognize that Ghana's treaty commitments create legitimate expectations warranting judicial protection. Such approaches, increasingly common in comparative constitutional law and endorsed by African feminist legal scholars (Banda, 2005), would enable courts to fulfill their constitutional mandate while respecting democratic legitimacy concerns.

Economic, Environmental, and Cultural Impediments to Enforcing Women’s Property Rights

The Economic Significance of Land Rights and Implications for Sustainable Development

Land represents the foundational economic asset in Ghana, particularly in rural areas where agricultural production remains the primary livelihood strategy. Approximately 45 percent of Ghana’s population engages in agriculture, with significantly higher percentages in rural regions. For these households, land access determines not merely income but also food security, social status, and intergenerational wealth transmission. Women constitute approximately 50 percent of the agricultural labor force yet hold substantially lower rates of formal land ownership, particularly titled land (World Bank, 2019).

The economic consequences of insecure land tenure extend beyond immediate agricultural productivity. This is because land serves as collateral for credit access. Without a formal title or secure tenure, women cannot leverage land assets to obtain loans for agricultural inputs, business investment, or emergency needs. This credit constraint perpetuates lower productivity and economic vulnerability. Ghana Living Standards Survey (GLSS) data demonstrates significant productivity differentials between male-controlled and female-controlled agricultural plots, partially attributable to differential access to credit and agricultural inputs (Ghana Statistical Service, 2019).

Crucially, this tenure insecurity undermines environmental sustainability and long-term community resilience. Women uncertain of retaining land access following widowhood or divorce rationally decline to invest in long-term soil conservation, irrigation infrastructure, agroforestry, or tree crops requiring years to mature. This time-inconsistency problem leads to short-term extractive land use that degrades the natural resource base upon which future generations depend. Conversely, research indicates that secure tenure correlates with climate-smart agriculture adoption and sustainable land management practices (Deininger et al., 2008). Recent literature on gender-responsive land governance confirms that women with secure land rights invest significantly more in soil fertility management, water harvesting, and agroforestry; all these practices are directly relevant to climate adaptation

in Ghana’s increasingly variable rainfall context (Meinzen-Dick et al., 2019; Quisumbing et al., 2014). By denying women secure rights, the current system actively disincentivizes the very behaviors required for climate adaptation and long-term food security.

Furthermore, property ownership affects women’s bargaining power within households and communities in ways that directly impact social cohesion. Research demonstrates strong correlations between women’s asset ownership and their participation in household decision-making and community governance (Agarwal, 1994). Economic dependence constrains women’s agency, creating vulnerability to domestic violence and limiting political participation. The exclusion of women from property ownership constitutes a form of horizontal inequality that fractures social cohesion. It signals that a segment of the community is not a full stakeholder in the collective future, thereby weakening the social contract and the shared identity necessary for collective action.

Empirical Evidence on Property Insecurity and Development Outcomes

Table 2 synthesizes key empirical findings on the relationship between women’s property insecurity and development outcomes in Ghana, drawing on the GLSS, DHS, and World Bank data analyzed in this study.

Table 2. Selected Empirical Evidence on Women’s Property Insecurity and Development Outcomes in Ghana

Indicator	Finding	Source
Women’s formal land ownership (titled)	Women hold < 10% of formally titled land	World Bank (2019)
Agricultural productivity gap	Male-controlled plots: ~40% higher productivity than female-controlled	Ghana Statistical Service / GLSS 7 (2019)
Credit access	< 15% of women farmers accessed formal agricultural credit	Ghana Statistical Service / GLSS 7 (2019)
Property grabbing incidence	~35% of widows in rural areas report property dispossession	CHRAJ Annual Reports

Long-term land investment	Women with documented tenure: 2.3× more likely to invest in soil conservation	Deininger et al. (2008)
Domestic violence correlation	Women lacking property rights: significantly higher vulnerability to intimate partner violence	Ghana DHS (2015)

Customary Law and Traditional Authority Structures

Understanding customary law’s role in constraining women’s property rights requires avoiding two analytical errors: romanticizing traditional practices as inherently legitimate or dismissing them as uniformly oppressive. The reality proves considerably more complex. Customary law in Ghana encompasses diverse practices varying significantly across ethnic groups, with both matrilineal systems (predominantly among Akan peoples) and patrilineal systems (including Ewe, Dagomba, Gonja, and others) governing inheritance and property distribution.

Historically, some customary practices afforded women significant influence and access rights. However, ethnographic and historical research demonstrates that colonialism fundamentally transformed these practices, typically in ways that diminished women’s authority and access. Amanor (2001) documents how British colonial land policies privileged male lineage heads as interlocutors with colonial administration, concentrating decision-making authority in male hands. Similarly, the commodification of land introduced through colonial legal and economic interventions shifted land from a communal resource managed for collective welfare toward a market commodity, a transformation that typically benefited men positioned to accumulate individual holdings.

Contemporary customary practices therefore reflect complex historical layering rather than timeless tradition. Manuh’s (2002) ethnographic work in peri-urban Kumasi demonstrates how lineage elders and chiefs strategically manipulate customary norms to exclude women from land access, invoking tradition to justify practices that would have been unrecognizable to pre-colonial ancestors.

The Phenomenon of Property Grabbing

Property grabbing, the forcible dispossession of widows from land and housing they occupied during marriage, epitomizes the violent intersection of customary practices, gender inequality, and inadequate legal protection. Following a husband's death, extended family members often claim exclusive rights to matrimonial property, pressuring widows to vacate land and housing through threats, intimidation, or actual violence (Richardson, 2004). The persistence of this practice despite PNDC Law 111's explicit protections reveals profound implementation failures: widows often lack knowledge of their statutory rights; police and local authorities frequently view inheritance disputes as family matters outside their jurisdiction; and even where widows possess awareness and determination to pursue legal recourse, geographic distance from courts, inability to afford legal representation, and lengthy litigation processes create insurmountable barriers.

Cultural Narratives and Gender Ideology

Beyond formal customary law and institutional structures, informal cultural narratives and gender ideologies powerfully constrain women's property rights assertions. These ideological formations operate at the level of taken-for-granted assumptions about appropriate gender roles, family obligations, and social respectability. Women internalize these norms through socialization, experiencing conflict between statutory entitlements and culturally prescribed behavior.

Several dominant narratives merit particular attention. The assertions of individual property rights by women are frequently constructed as disrespectful to husbands, elders, or deceased spouses' memories. Cultural emphasis on family harmony and collective well-being over individual rights creates social pressure for women to subordinate legal entitlements to family cohesion. Therefore, women who pursue property claims may face accusations of greed, selfishness, or betrayal of family obligations, accusations rarely directed at male relatives asserting comparable claims.

Furthermore, prevailing gender ideologies construct women as inherently

dependent and men as natural providers and decision-makers. These assumptions inform judgments about women's capacity for property management and productive land use. Women's agricultural labor, though empirically substantial, may be discounted as merely helping husbands rather than constituting independent economic contribution. Conversely, women's domestic and reproductive labor like childcare, household management, food preparation though economically essential, is ideologically constructed as natural female duty rather than valuable work meriting compensation or property claims.

Religious interpretations may reinforce gender hierarchy in property relations. While neither Christianity nor Islam inherently mandates women's property subordination, patriarchal interpretations often predominate in popular religious discourse. Addressing these ideological dimensions requires recognizing that legal reform, however necessary, proves insufficient without accompanying transformation of underlying gender norms. This insight is central to African feminist legal scholarship, which emphasizes the need for simultaneously legal and cultural-normative change (Ncube, 1997; Banda, 2005).

A Proposed Framework for Strengthening Protection and Enforcement

Effective advancement of women's property rights in Ghana requires coordinated reforms addressing legal frameworks, institutional capacity, cultural norms, and economic structures simultaneously. Piecemeal interventions targeting single dimensions predictably yield limited results. The following framework proposes integrated reforms organized across five domains, explicitly targeting the reinforcement of social cohesion and the achievement of sustainable development outcomes.

Legal Clarification and Harmonization: Statutory Amendments and Judicial Guidelines

First, Parliament could amend PNDC Law 111 to explicitly recognize all legally valid spouses in intestate succession. The current single-spouse provision creates manifest injustice for women in polygamous marriages. Reformed

legislation could distribute the spousal share proportionally among all surviving spouses, aligning intestacy law with the realities of customary marriage. Second, legislation should clarify the hierarchy between statutory and customary law in property matters. The amendment could establish a statutory presumption that in property disputes involving women's rights, statutory law prevails unless customary practice demonstrably serves a legitimate cultural objective achievable through less discriminatory means, applying a proportionality framework familiar in constitutional rights adjudication.

Furthermore, reforms can address evidentiary standards in substantial contribution cases. Legislation could establish rebuttable presumptions that particular forms of contribution, such as documented financial investment, agricultural labor, and business participation, constitute substantial contributions meriting property interests. Such presumptions would shift burdens away from claimant wives and toward contesting parties, reducing barriers women face in documenting informal contributions. Additionally, legislation could mandate judicial consideration of non-monetized contributions, including domestic labor, childcare, and household management, explicitly recognizing these activities' economic value.

The Supreme Court can issue comprehensive practice directions addressing property rights adjudication. These directions could standardize approaches to valuing diverse contribution types, establish timelines for expeditious resolution of inheritance disputes, and mandate gender-sensitive procedures, including judicial notice of systemic barriers women face in property rights assertion. Practice directions offer advantages over legislation: they can be issued more rapidly, updated iteratively as experience accumulates, and tailored specifically to judicial practice without requiring parliamentary action.

Institutional Strengthening

Establishing specialized tribunals or dedicated court divisions addressing property rights disputes would enhance both expertise and accessibility. These tribunals could operate with simplified procedures, reduced fees, and decentralized locations, which could potentially circuit ride to rural areas on regular schedules. Specialized adjudicators would develop a sophisticated understanding of both statutory and customary law, enabling more nuanced

and consistent decision-making than generalist judges handling occasional property cases alongside diverse other matters.

Dramatically expanding legal aid provision constitutes a prerequisite for meaningful access to justice. Current legal aid resources remain grossly inadequate to meet demand, particularly in rural areas where women face the greatest barriers. Expansion could incorporate multiple delivery mechanisms: government-funded legal aid offices in all regions; partnerships with civil society organizations providing pro bono representation; trained paralegals offering basic legal assistance and representation in lower tribunals; and law school clinical programs engaging students in supervised representation of indigent claimants.

Land registration authorities in Ghana can implement simplified procedures for co-titling matrimonial property in both spouses' names. International evidence demonstrates that joint titling significantly strengthens women's tenure security and reduces post-marital property disputes (Deininger et al., 2008). In the context of social cohesion, joint titling is a powerful signaling mechanism. It formalizes the economic partnership of marriage, reinforcing the nuclear family as a cohesive unit of economic production and reducing intra-family and intergenerational conflict over land, a primary driver of community-level strife and litigation that clogs the judicial system and erodes social trust.

Comprehensive Education and Awareness

Systematic public education campaigns can employ diverse media channels reaching both urban and rural populations. Radio programming proves particularly effective given its accessibility in areas with limited literacy or internet connectivity. Campaigns should employ culturally resonant messaging formats, including storytelling, drama, and music that engage audiences emotionally while conveying legal information. Content should address both substantive rights, mainly what the law guarantees, and procedural access as well as how to assert rights through available mechanisms.

Critically, awareness campaigns must target multiple constituencies. Messaging should emphasize not only individual rights but also the collective, intergenerational benefits of women's property security. This includes framing

secure women's land rights as a booster for community food security, climate resilience, and the reduction of poverty-related out-migration, all core components of a sustainable and cohesive rural society.

Mandatory continuing legal education for judges, lawyers, police, and traditional authorities can address gender sensitivity, implicit bias, property rights law, and international human rights standards. Training should employ active learning methodologies, including case simulations, role-playing exercises, and facilitated discussions rather than purely didactic lectures. Evaluation mechanisms should assess not merely knowledge acquisition but also behavioral change in professional practice. International volunteer programs engaging law students and lawyers could supplement domestic training capacity while fostering cross-cultural learning.

Economic Enablement

Financial institutions and development partners can expand collateral alternatives, enabling women without formal land titles to access credit. Mechanisms including group lending with joint liability, inventory-based lending using agricultural products or equipment as collateral, and credit scoring systems incorporating alternative data (mobile money transaction histories, utility payment records) can reduce dependence on land title for creditworthiness assessment. Women's cooperatives and savings groups provide additional mechanisms for pooling resources and accessing credit collectively.

Broader land reform initiatives can explicitly incorporate gender equality objectives. Systematic land registration programs mainly aimed at formalizing customary holdings and clarifying tenure can mandate inclusion of women's names on titles and ensure women's meaningful participation in adjudication processes determining property rights. Pilot programs in select districts could demonstrate feasibility and generate evidence for national scaling, incorporating continuous evaluation and adaptive management.

Cultural Transformation Strategies

Productive reform requires engaging traditional authorities as partners rather than adversaries. Dialogue platforms, which will bring together chiefs, queen

mothers, statutory institutions, and civil society, can foster mutual understanding and identify complementary approaches. Highlighting precedents where traditional authorities have successfully championed women's rights and the social benefits resulting may encourage broader adoption. In the hypothetical village of Nananom, for instance, local chiefs established co-management structures incorporating women in land governance, demonstrating that constitutional principles and cultural traditions need not remain in tension.

Advocacy strategies can employ culturally resonant framing that presents women's property rights as continuous with, rather than contradictory to, valued cultural principles. In the Ghanaian context, the concept of Nkabom (unity/cohesion) is a powerful cultural touchstone. Advocacy should reframe women's property security not as an individualistic claim against the family but as a means of strengthening the Abusua (family/clan) by ensuring that the labor and care provided by women result in lasting, intergenerational wealth and stability. This reframing shifts the narrative from zero-sum conflict to collective resilience, aligning the pursuit of gender equality with the cultural imperative of maintaining social harmony and community strength.

Given religious institutions' profound social influence in Ghana, partnering with progressive religious leaders to articulate egalitarian interpretations of scriptural texts could reshape normative discourse. Both Christian and Islamic traditions contain rich textual resources affirming women's dignity and property rights; amplifying these interpretations through religious education, sermons, and community programs can gradually shift prevailing gender norms. Interfaith coalitions uniting Christian and Muslim voices in support of women's property rights may prove particularly powerful given their cross-cutting social reach.

Critical Analysis and Theoretical Contributions

The Contradictions of Legal Pluralism and the Erosion of Social Trust

This analysis illuminates a central contradiction characterizing legal pluralism in post-colonial contexts: the very constitutional recognition of customary law, intended to respect cultural diversity, simultaneously creates structural

conditions enabling discriminatory practices to persist despite formal equality guarantees. This structural ambiguity proves strategically useful for actors seeking to maintain patriarchal privilege. When statutory law threatens established power relations, defenders of the status quo invoke customary law and cultural authenticity. Conversely, when customary practices face challenges, proponents selectively cite constitutional principles of cultural pluralism, what Merry (1988) terms 'forum shopping.'

Dialectical materialism reveals these dynamics not as static but as evolving through ongoing conflict and synthesis. Statutory reforms like PNDC Law 111 emerged from contradictions between customary practices and evolving norms of gender equality, yet their implementation generated new contradictions as customary heads adapted strategies to circumvent statutory requirements. This dialectical process continues, with each reform generating counter-adaptations in a dynamic struggle over material resources and normative authority.

Beyond Formal Equality: The Substance Distinction and the Sustainability Trap

Ghana's experience powerfully illustrates the limitations of formal legal equality absent substantive transformation of underlying material conditions and social relations. The 1992 Constitution declares all persons equal before the law; PNDC Law 111 establishes formally gender-neutral inheritance rules; and the Matrimonial Causes Act authorizes equitable property distribution. Yet these formal guarantees coexist with persistent material inequality in property ownership, access, and control.

This disjuncture reflects what critical legal scholars term the substance-form distinction. The substantial contribution doctrine illustrates this dynamic: formally neutral, it operates in practice to perpetuate disadvantage against a systematically marginalized group. This can be characterized as a sustainability trap. Formal legal equality (a necessary condition for SDG 5) exists, yet the material conditions of inequality prevent women from acting as agents of sustainable development. They are prevented from investing in land (environmental pillar) and remain economically precarious (economic pillar),

which in turn fuels household conflict and weakens community governance structures (social pillar). The doctrine of substantive equality therefore demands that policy interventions dismantle these material and social barriers to unlock the full developmental potential of half the population. This finding aligns with the growing consensus in the gender-land-climate literature that women's secure land rights are a foundational enabling condition for achieving the Paris Agreement's climate goals in Sub-Saharan Africa (Meinzen-Dick et al., 2019).

The Colonial Legacy and Legal Hybridity

Contemporary challenges surrounding women's property rights cannot be understood apart from colonial legacies that profoundly reshaped Indigenous legal systems, economic structures, and gender relations. British colonialism introduced the commodification of communal land, privileged male lineage heads as colonial interlocutors, imposed English common law frameworks emphasizing individual ownership, and administratively recognized customary law in ways that froze dynamic practices into static codes (Mamdani, 1996). These colonial interventions generated what Benton (2002) terms 'legal hybridity,' where systems combine elements from multiple legal traditions in ways unanticipated by any of their original formulations.

Understanding this hybrid character reveals important implications. Invoking tradition or culture to defend contemporary practices often obscures how colonialism transformed those very traditions. Conversely, wholesale rejection of customary law as illegitimate risks discarding genuinely indigenous practices offering alternative models for social organization. The challenge lies in distinguishing elements worth preserving from those requiring transformation, a task requiring careful historical analysis and inclusive democratic deliberation.

Property Rights, Development, and a Broader Relevance

Development literature frequently posits women's property rights as instrumental to broader development objectives like economic growth, poverty reduction, and child welfare improvements. While evidence supports these correlations, this article suggests caution regarding causal inference and instrumental framing. That said, property insecurity clearly generates tangible

harms: constrained agricultural productivity, limited credit access, reduced bargaining power, and vulnerability to domestic violence.

The article's framework holds broader relevance for legally pluralistic post-colonial states across Africa, particularly those confronting similar tensions between statutory gender equality commitments and customary tenure systems. Countries including Tanzania, Kenya, Uganda, and Zambia face analogous structural contradictions between formal constitutional equality and the customary land regimes that govern the majority of rural land (Tsikata, 2003). The findings suggest that in all these contexts, the enforcement of women's property rights should be understood not merely as a legal compliance matter but as a strategic investment in social cohesion, institutional trust, and climate-resilient development, a priority particularly urgent as African economies face accelerating climate pressures that fall disproportionately on women agricultural producers.

Conclusion

This article has examined the complex landscape of women's property rights in Ghana, analyzing constitutional and statutory protections, judicial interpretation, enforcement challenges, and potential reform pathways. The analysis reveals a profound disjuncture between formal legal equality and lived experiences of discrimination, rooted in structural tensions between statutory and customary legal systems, inadequate institutional capacity, entrenched gender ideologies, and material conditions constraining rights assertion.

Several key findings merit emphasis. First, Ghana has established comparatively progressive statutory frameworks protecting women's property rights, including constitutional equality guarantees, reformed intestacy law, and judicial recognition of the substantial contribution principle. However, formal legal provisions prove insufficient without accompanying mechanisms for effective implementation and enforcement. Second, the persistence of discriminatory practices despite statutory reforms reflects not merely implementation deficits but deeper structural contradictions within legal pluralism frameworks. Third, women's property insecurity generates concrete material harms extending beyond immediate economic loss to encompass constrained agency,

vulnerability to violence, limited political participation, and intergenerational transmission of disadvantage. Fourth, effective reform requires comprehensive, coordinated interventions across multiple domains simultaneously.

The article's theoretical contributions center on illuminating the dynamics of legal pluralism in post-colonial contexts through dialectical materialist analysis, revealing how statutory and customary systems interact dynamically through ongoing conflict and strategic invocation. The analysis demonstrates the limitations of purely formal legal equality absent transformation of underlying material conditions while documenting how colonial legacies continue shaping contemporary legal conflicts around property, gender, and cultural authenticity.

Ghana's experience offers important lessons for other jurisdictions confronting similar challenges. Comparative evidence from India, Mozambique, Kyrgyzstan, and Tajikistan demonstrates that legislative reform alone proves insufficient where customary practices and patriarchal norms retain social legitimacy. Successful reform requires attending to implementation mechanisms, institutional capacity, cultural resonance of reform strategies, and material conditions enabling or constraining rights exercise. The framework developed in this article, that is, integrating dialectical materialist analysis, African feminist legal theory, and evidence-based policy recommendations, offers a transferable model for understanding and addressing the statutory-customary gap in other legally pluralistic African states, contributing to a growing comparative literature on gender justice and sustainable development.

Ultimately, advancing women's property rights in Ghana and comparable contexts requires sustained political will, institutional commitment, and social mobilization. The pathways forward require neither wholesale rejection of tradition nor uncritical maintenance of the discriminatory status quo, but rather a creative synthesis generating legal and social formations that honor cultural identity while ensuring the cohesive and sustainable development that fundamental human dignity demands.

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Ethics Statement

This study did not include human participants and therefore did not require ethical approval.

Use of Generative AI

The authors did not use any AI tools in writing or translating this article. This article is written by the authors and carefully edited. Both the authors take full responsibility for the final version of the manuscript.

Conflict of Interest

The authors declare no conflict of interest.

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